

Fresno, California

August 29, 2006

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Henry Perea	Acting Council President
	Cynthia Sterling	Councilmember
	Larry Westerlund	Councilmember
	Jerry Duncan	Council President

Andy Souza, City Manager  
James Sanchez, City Attorney  
Becky Klisch, City Clerk  
Cindy Bruer, Deputy City Clerk  
Yolanda Salazar, Assistant City Clerk

Reverend Steve Ratzlaff of the Mennonite Community Church gave the invocation, and Acting President Perea led the Pledge of Allegiance.

RECOGNITION OF \$25,000 DONATION FROM HEALTH FRESNO TO THE CITY OF FRESNO F.U.N. FOUNDATION - PRESIDENT DUNCAN

Recognized.

PROCLAMATION OF "OPERATION SCHOOL BELL DAY" - COUNCILMEMBER BOYAJIAN

Read and presented.

RECOGNITION OF JUANITA STEVENSON, KFSN ANCHOR/PRODUCER - COUNCILMEMBER STERLING

Recognized and commended.

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**APPROVE CITY COUNCIL MINUTES OF AUGUST 22, 2006:**

On motion of Acting President Perea, seconded by Councilmember Dages, duly carried, RESOLVED, the minutes of August 22, 2006, approved as submitted. At the hour of 9:04 a.m. Councilmember Boyajian left the meeting briefly.

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**COUNCILMEMBER REPORTS AND COMMENTS:**

**REMOVAL OF LARGE TREE BRANCH IN DISTRICT 7 – ACTING PRESIDENT PEREA**

Acting President Perea thanked staff for the quick response in removing a large tree branch that had fallen and was blocking traffic on Van Ness north of Shields Avenue.

**HEALTH COVERAGE FOR POLICE AND FIRE INJURIES WHILE ON DUTY – COUNCILMEMBER STERLING**

Councilmember Sterling requested additional information on what the City's health plan did not cover in a situation when a Police Officer or Firefighter was injured in the line of duty and City Manager Souza requested additional information due to the involvement of Worker's Compensation.

#### **HOMELESS PROJECT CLEANUP – COUNCILMEMBER STERLING**

Councilmember Sterling thanked staff and everyone involved for their efforts this last weekend for the clean up and for putting up fencing for the homeless project located on “E” and Ventura Streets and stated it was important for the City to continue working together to provide healthy neighborhoods. Councilmember Boyajian returned to the meeting at 9:10 a.m.

#### **REQUEST INSTALLATION OF BUS STOP AT WILLOW AND KINGS CANYON AVENUES– COUNCILMEMBER DAGES**

Councilmember Dages requested a meeting be scheduled with Fresno Area Express to discuss the installation of a bus stop at the southeast corner of Willow and Kings Canyon Avenues.

#### **PUBLIC UTILITY COMMISSION – COUNCILMEMBER WESTERLUND**

Councilmember Westerlund encouraged Councilmembers to observe the Utility Commission at work and stated the Commission would be providing Council with updates on a regular basis.

#### **FACILITY AT EL DORADO PARK – COUNCILMEMBER WESTERLUND**

Councilmember Westerlund questioned why the restroom project for El Dorado Park was transferred from PR&CS to Facilities Management and requested the project move forward due to pre-school children using the same restrooms at the church as the teenagers.

#### **EXTEND BEST WISHES TO FRESNO STATE BULLDOG FOOTBALL TEAM – COUNCIL PRESIDENT DUNCAN**

Council President Duncan stated Friday was the first Fresno State Football game and extended best wishes to Coach Pat Hill.

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#### **APPROVE AGENDA:**

**(9:15 A.M. "G") BILL NO. B-123 - ORDINANCE NO. 2006-131 - ADDING SECTION TO THE FRESNO MUNICIPAL CODE RELATING TO PROHIBITING BASE SALARY REDUCTIONS FOR UNCLASSIFIED EMPLOYEES' JOB PERFORMANCE**

**1. PRESENTATION REGARDING "NEW NORMAL" AND "PAY FOR PERFORMANCE"**

City Manager Souza requested Item 9:15 a.m. G-1 pertaining to the presentation regarding New Normal and Pay for Performance be continued to 9/19/2006 at 11:00 a.m. with Council concurring.

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**3:30 P.M. BILL – (FOR INTRODUCTION) - ADOPT TEXT AMENDMENT APPLICATION NO. TA-06-02 (VARIETY PAK NO. 3) AND ENVIRONMENTAL FINDINGS, INITIATED BY THE PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR, AMENDING THE TEXT OF THE FRESNO MUNICIPAL CODE ZONING ORDINANCE RELATED TO SIMPLIFYING AND STREAMLINING THE CODE AND PROPOSING CHANGES AND ADDITIONS AS DIRECTED BY THE ADOPTION OF THE 2025 FRESNO GENERAL PLAN IN ORDER TO BEST PROMOTE ITS IMPLEMENTATION (TEXT AMENDMENT IS LAID OVER FOR ADOPTION AT A NOTICED PUBLIC HEARING ON SEPTEMBER 19, 2006, AT 10:10 A.M.) - PLANNING AND DEVELOPMENT DEPT**

City Manager Souza requested staff provide Council with an informational workshop at today's meeting and return on 9/19/2006 for introduction and adoption on 9/26/2006, with Council concurring. Council President Duncan questioned whether the Building Industry Association would be informed of the time change with Mr. Souza stating BIA would be notified.

City Clerk Klisch stated the 3:15 p.m. item should indicate the property was located in District 1, and not District 2, and the 3:20 p.m. “B” Redevelopment Agency item should be for Agency action only.

**(10:00 A.M. #2)** CONTINUED HEARING ON REZONE APPLICATION NO. R-05-61 AND ENVIRONMENTAL FINDINGS, FILED BY CENTEX HOMES ON BEHALF OF DAMRONG AND SOMLUCK PATTANUMOTANA AND AHMED KHALED, SOUTHWEST CORNER OF N. LOCAL AND E. SHIELDS AVENUES

**(Continue to September 19, 2006, at 10:45 a.m.)**

Continued as noted.

**(10:45 A.M.)** CONTINUED HEARING TO CONSIDER A RESOLUTION AMENDING THE STORM DRAINAGE AND FLOOD CONTROL MAP AND AMENDING THE DRAINAGE FEES AND COSTS FOR EACH LOCAL DRAINAGE AREA FOR ALL DEVELOPMENTS WITHIN THE JOINT AREA OF THE CITY AND THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT **(Continue to September 26, 2006, at 11:00 a.m.)**

On motion of Councilmember Westerlund, seconded by Councilmember Dages, duly carried, RESOLVED, the **AGENDA** hereby approved, *as amended*, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea. Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

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**ADOPT CONSENT CALENDAR:**

**(1-A)** AWARD A CONTRACT TO WESCO INFRASTRUCTURE TECHNOLOGIES, L.P., IN THE AMOUNT OF \$2,635,331 FOR SEWER REHABILITATION IN CHESTNUT AND MCKINLEY AVENUES

**(1-B)** AUTHORIZE THE DIRECTOR OF PUBLIC UTILITIES AND OR HIS DESIGNEE, TO NEGOTIATE AND EXECUTE A LEASE AGREEMENT WITH COTTONWOOD CREEK CONSULTANTS, LLC, FOR THE USE OF THE SOUTHGATE WWTF

**(1-C)** REJECT ALL BIDS RECEIVED FOR THE TELESCOPIC SEATING IN THE SELLAND ARENA

**(1-D)** CONSIDERATION OF THE PROPOSED DAKOTA-POLK NO. 4 REORGANIZATION

**1.** AFFIRMING COUNCIL ACTION OF JUNE 20, 2006, ADOPTING THE ENVIRONMENTAL FINDING OF E.A. NO. R-05-71/T-5538/C-05-201

**1. RESOLUTION NO. 2006-406 - APPLYING TO LAFCO**

**(1-E)** CONSIDERATION OF THE PROPOSED MCKINLEY-HAYES NO.2F REORGANIZATION

**1.** AFFIRMING COUNCIL ACTION OF JUNE 6, 2006, ADOPTING THE ENVIRONMENTAL FINDING OF E.A. NO. R-05-86/T-5586/C

**2. RESOLUTION NO. 2006-407 - APPLYING TO LAFCO**

**(1-F)** **RESOLUTION NO. 2006-408 - APPROVING THE SUMMARY VACATION OF ANNADALE AVENUE FROM WEST AVENUE TO 1320 FEET WEST OF WEST AVENUE**

**(1-G)** APPROVE THE ACQUISITION OF A STREET EASEMENT AND USE OF A CONSTRUCTION EASEMENT FROM PROPERTY OWNED BY HARRY MAZGEDIAN, TRUSTEE OF HARRY MAZGEDIAN LIVING TRUST DEED DATED DECEMBER 3, 1991

**1.** AUTHORIZE THE PUBLIC WORKS DIRECTOR TO ACCEPT THE DEED OF EASEMENT AND CONSTRUCTION EASEMENT AND EXECUTE THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND COMPLETE THE ACQUISITION THROUGH ESCROW

**(1-H)** APPROVE THE ACQUISITION OF A STREET EASEMENT AND CONSTRUCTION EASEMENT FROM PROPERTY OWNED BY ROBERT SAN MIGUEL VILLALPANDO AS TRUSTEE OF TH ROBERT SA MIGUEL VILLALPANDO FAMILY TRUST, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR TO ACCEPT THE DEED OF EASEMENT AND CONSTRUCTION EASEMENT AND EXECUTE THE AGREEMENT FOR PURCHASE AND SALE OF RAL PROPERTY AND COMPLETE THE ACQUISITION THROUGH ESCROW

(1-I) APPROVE THE ACQUISITION OF TWO STREET EASEMENTS AND THE USE OF TWO CONSTRUCTION EASEMENTS FROM PROPERTY OWNED BY EASTGATE CENTER, LLC, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR TO ACCEPT THE DEED OF EASEMENTS AND CONSTRUCTION EASEMENTS AND EXECUTE THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND COMPLETE THE ACQUISITION THROUGH ESCROW.

(1-J) **RESOLUTION NO. 2006-409** - 4<sup>TH</sup> AMENDMENT TO SALARY RES. 2006-257 MODIFYING THE SALARIES IN EXHIBIT 5, FIRE NON-MANAGEMENT AND IN EXHIBIT 8, AIRPORT PUBLIC SAFETY SUPERVISORS (REFLECTING INCREASES APPROVED ON 11/15/05 AND 2/7/06, RESPECTIVELY)

(1-K) APPROVE AN AGREEMENT WITH WORMHOUDT, INC., IN THE AMOUNT OF \$96,600 FOR THE PREPARATION OF PLANS, SPECIFICATIONS AND COST ESTIMATES FOR THE BMX BIKE PARK AT THE MOSQUEDA COMMUNITY CENTER

(1-L) APPROVE AN AMENDMENT TO THE CURRENTLY EXPIRED PARKING PERMIT AGREEMENT WITH THE COUNTY OF FRESNO FOR EMPLOYEE AND JUROR PARKING AT THE STADIUM AND BOXCAR PARKING LOTS SO THE CONTRACT MAY BE REINSTATED AND EXTENDED ON A MONTH-TO-MONTH BASIS

(1-M) AWARD A MULTI-PRIME CONTRACT WITH FRESNO PLUMBING AND HEATING, INC. IN THE AMOUNT OF \$118,239 RELATED TO THE REHABILITATION OF THE SAROYAN THEATER BACK OF HOUSE FOR BID PACKAGE 5, PLUMBING

(1-N) AUTHORIZING THE REALLOCATION OF SAFETEALU DEMONSTRATION FUNDS TO THE FRESNO COUNTY TRANSPORTATION AUTHORITY FOR THE PURPOSE OF AUGMENTING THE CONSTRUCTION COSTS ASSOCIATED WITH THE EXTENSION OF SR 180 FROM HUGHES/WEST DIAGONAL TO BRAWLEY AVENUE

(1-O) INTRODUCTION OF ORDINANCE BILLS AMENDING THE FRESNO MUNICIPAL CODE RELATING TO MODIFICATION OF THE CLASSES OF PERMISSIBLE BENEFICIARIES UNDER THE OPTIONAL FORMS OF SETTLEMENT

1. **BILL NO. B-133** - AMENDING FMC SECTION 2-1733
2. **BILL NO. B-134** - AMENDING FMC SECTION 2-1733A
3. **BILL NO. B-135** - AMENDING FMC SECTION 2-1841

(1-P) **BILL NO. B-131 - ORDINANCE NO. 2006-129** - AMENDING THE OFFICIAL LIST OF DESIGNATED SPEED ZONES AND DESIGNATING SPEED LIMITS FOR VARIOUS STREETS WITHIN THE CITY PURSUANT TO THE FMC

(1-Q) **BILL NO. B-122 - ORDINANCE NO. 2006-130** - REPEALING SECTION OF THE FMC RELATING TO MEDICAL MARIJUANA DISPENSARIES, AND ADOPTING SECTION RELATING TO PROPERTY DEVELOPMENT STANDARDS FOR MEDICAL MARIJUANA DISPENSARIES AND COOPERATIVES

On motion of Acting President Perea, seconded by Councilmember Westerlund, duly carried, **RESOLVED**, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

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**(9:00 A.M. "A") PUBLIC COMMENT PERIOD - SCHEDULED COMMUNICATION:**

APPEARANCE BY SHLOMO PLEBAN TO DISCUSS CREATING A POLICY FOR A POLICE OFFICER TO DIRECT TRAFFIC WHEN TRAFFIC LIGHTS MALFUNCTION DURING RUSH HOUR

(2-0) Mr. Pleban stated the Police Department did not assist with traffic control when he was caught in a rush hour traffic jam and stated the importance of creating a policy to assist in a rush hour and noted research needed to be performed to find out the number and lengths of time a traffic light malfunctions. No action taken.

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**(9:00 A.M. "B") PUBLIC COMMENT PERIOD - UNSCHEDULED COMMUNICATION:**

Kathy Omachi, 759 "F" Street, Reedley, Vice Chair for Chinatown Revitalization thanked Council for the City's efforts last Friday in helping the families residing on "E" Street who have coped with various issues such as prostitution, drugs and threats. Ms. Omachi also requested continued discussions with the homeless in order to provide transitional housing and other available services. Ms. Omachi requested Council work with Caltrans to solve the problems relating to the overpasses in Chinatown crowded with homeless people living in tents and the trash created by them.

Jose Barraza, 4243 E. Thomas, Fresno, expressed concern with the necessity of continuing to work with the homeless due to a large majority of the homeless were disabled and also the need for the City and County to work together to help the homeless now that the Board of Supervisors recently approved an American Disability Act Advisory Committee.

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**(9:15 A.M. "A")     RESOLUTION - 7<sup>TH</sup> AMENDMENT TO AAR 2006-253 APPROPRIATING \$75,000 TO FUND STORYLAND/PLAYLAND GENERAL LIABILITY AND EXCESS LIABILITY INSURANCE**

Management Analyst Zieba gave an extensive review of the staff report and financial data and stated due to time constraints staff was not able to completely analyze the information before submitting the staff report. Ms. Zieba stated staff recommended Council allow a safety inspection be performed at Storyland/Playland at the cost of approximately \$2700.00 which would be paid out of the Risk Property insurance fund. Ms. Zieba continued the presentation and stated since the City owned the property, the City could be liable for any claim that exceeded the excess liability insurance of \$2 million and stressed the importance of performing a safety inspection which would be completed in October. Ms. Zieba noted staff recommended the City's funding be contingent upon the safety inspection and the completion of any Tier 1 repairs before the money was allocated to Storyland/Playland.

Berry Falk, Executive Director of Storyland/Playland stated the property was currently insured and noted the insurance company performed inspections on a semi-regular basis and the rides were inspected every year by the State of California, adding the equipment was in complete compliance. Mr. Falk expressed concern with the inspection being performed in October and requested an earlier date be set.

Councilmember Sterling advised of the importance of reviewing the financials and inspection of the equipment.

A motion to continue the above item to September 26, 2006, with a specific time was made and voted upon after extensive discussion.

Councilmember Dages expressed his concern regarding the continuation of the item and stated the park was in compliance and recommended approval.

Councilmember Westerlund stated he had recently visited the park and expressed concern with the trip and fall issues filed, reviewed a notice to correct dated April 19, 2006, relating to not having a procedure for training of the equipment operators and stressed the need for additional time to review the financials and to have a Tier 1 evaluation done. Councilmember Westerlund also requested Mr. Falk provide documentation stating the City was a secondary/additional insured. Mr. Falk stated all the issues have been complied with and apologized for the past record keeping.

Councilmember Calhoun expressed concern with the difficulty in obtaining the financial data and questioned whether the reports had been audited. City Manager Souza stated there were questions as to the financial data not indicating the City's contributions, and emphasized the importance of having additional time to review the financials and also perform a safety inspection of the park. Councilmember Calhoun questioned what would happen if a claim over \$2 million was filed and City Attorney Sanchez stated the City would be included in the liability if the lessee was not covered with sufficient insurance. Councilmember Calhoun stated the City's obligation was to do due diligence and noted the importance of having additional time to review all the information in order to make a decision.

Discussion ensued regarding the definition of a Tier 1 repair and Ms. Zieba stated a Tier 1 repair was when the ride would be shut down and must be repaired immediately, Tier 2 was important to be fixed and Tier 3 needed repair but could still be operated, and stated hopefully there would be no Tier 1 reports. Councilmember Boyajian expressed concern with the age of the rides and also with having a stable revenue and the need for funds to fix the repairs. Mr. Falk stated that once the park entered into a Master Plan process with the City and Chaffee Zoo along with the zoo's expansion there would be more revenue, noting they were working to launch a capital

campaign to raise money for renovation of the rides. Mr. Falk stated every year the park closed in October at which time, the park's line of credit would freeze and the remaining money would go toward paying liabilities that continue during the closure of the park, and requested the City provide the requested funding prior to October.

**(3-0)** Councilmember Sterling questioned whether September 26, 2006 would be enough time for the inspection and Ms. Zieba stated as long as there were no Tier 1 repairs during the October inspection, September 26<sup>th</sup> would be sufficient and noted staff would also have enough time to analyze the additional information received.

Council President Duncan requested clarification of what the funds would provide for the park, and questioned the period of time the park was open, adding the season opened in February and was basically over in August and pointed out the issues of safety and liability were virtually behind us. Council President Duncan also questioned why the City did not recognize the State of California as being the legal authority on the safety of amusement rides with Ms. Zieba responding. Council President Duncan expressed concern with the City of Fresno micromanaging what the State was responsible for and the financial questions should have been addressed earlier and felt the current discussion had nothing to do with the item listed on the agenda. Mr. Souza explained concerns with the issuance of funds outside the budget cycle and noted the City needed to find out if there was due diligence still needing to be done.

On motion of Councilmember Sterling, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled item continued to September 26, 2006, at a time certain, by the following vote:

Ayes	:	Calhoun, Perea, Sterling, Westerlund
Noes	:	Boyajian, Dages, Duncan
Absent	:	None

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**(9:15 A.M. "B") APPROVE RENEWED AGREEMENT WITH BURKE CONSTRUCTION SERVICES, INC. FOR INSPECTION AND EVALUATION OF PROPERTIES LISTED IN THE CITY'S LOCAL REGISTER OF HISTORIC RESOURCES**

Project Manager Hatterley-Drayton reviewed the issue as contained in the staff report and recommended approval. Councilmember Dages left the meeting briefly at 10:27 a.m.

A motion to approve the above listed item was acted upon after brief discussion.

Council President Duncan questioned the process of providing the information to the public upon conclusion of the work, with Ms. Drayton responding. Council President Duncan recommended providing a one or two paragraph summary of the conditions of the property to Council and the public, but later withdrew his recommendation with Ms. Drayton stating it would be very time consuming, but would research the issue.

Councilmember Calhoun recommended staff provide a listing of the buildings along with the addresses to the public as it would be useful.

On motion of Acting President Perea, seconded by Councilmember Westerlund, duly carried, RESOLVED, Council hereby authorizes the City Manager or his designee to execute \$49,950 consultant agreement with Joe Burke Construction Services, Inc to complete the second year of a two-year review process of the condition of the City's designated historic buildings, by the following vote:

Ayes	:	Boyajian, Calhoun, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	Dages

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**(9:15 A.M. "C") AUTHORIZE STAFF TO COMPLETE THE NEGOTIATIONS FOR THE PURCHASE OF THE VIRGINIA HOTEL AT 2125-45 KERN STREET FRM THE ESTATE OF SPAULDING G. WATHEN**

Interim Economic Development Director Johnson reviewed the staff report and stated the purchase of the property would be a risk and bold steps would be necessary to accomplish significant changes to the Virginia Hotel. Councilmember Dages returned to the meeting at 10:35 a.m. Mr. Johnson stated the hotel was possibly eligible for national register designation which would increase the tax credit to 20% if approved and recommended Council approve staff recommendation to move forward with the purchase of the Virginia Hotel. Acting President Perea left the meeting at 10:36 a.m. and returned at 10:43 p.m.

David Sparr and Curt Madden, Economic Development Corporation members spoke in support of the project.

Councilmember Boyajian stated a hotel would not provide many jobs if that was the purpose and noted if three or four businesses purchased the hotel for the purpose of expansion it would provide many more jobs. Councilmember Boyajian stated the purchase of property in the Roeding Industrial Park would be more beneficial to the City, and also recommended helping businesses expand, noting the importance of giving the private enterprise an opportunity.

Councilmember Dages stated the purchase was positive and friendly and noted the importance of the basic concept of the area needing to stay intact. Councilmember Westerlund left the meeting at 10:49 a.m. and returned at 10:53 a.m.

A motion to approve the purchase of the property was acted upon after extensive discussion.

Councilmember Calhoun stated this purchase was a risk but he was but willing to take the risk and noted the purchase was very appropriate and looked forward to receiving more information.

**(2-0)** City Manager Souza stated the debt service cost was approximately \$75,000 – 80,000 per year and the leases that were presently in place were approximately \$80,000-90,000 in revenue and would maintain itself during the purchase process.

Council President Duncan questioned why the item was on the agenda when the City did not need approval to negotiate for the purchase of property with Mr. Souza responding. Council President Duncan stated this should have been private sector generated and not City of Fresno generated and expressed concern relating to the use of borrowed CDBG funds which would deprive the poor in the City and noted the funds could be used for street repairs and upgrading City parks.

Councilmember Westerlund stressed the importance of having a plan, and noted three ideas have been discussed to include a boutique, a hotel loft apartment complex and condominiums and expressed concern with why some developers were interested in the hotel but did not purchase the property. Councilmember Westerlund requested staff provide a plan for the property, and also requested information on the ADA requirements or compliance level, a parking plan, a full structural engineering report, asbestos and lead level report and safety standards. Councilmember Westerlund stated he was willing to move forward to determine what the final outcome would be depending on the information he requested, but noted if the deal points did not work out he would vote no.

Councilmember Sterling expressed concern with the use of CDBG funds due to the project not benefiting blighted areas or to assist people who could not afford their own housing and Mr. Souza stated the HUD Section 108 was included in economic development, jobs, and historic preservation, and noted Section 108 did not address the current CDBG allocation or current HOME funds. Councilmember Sterling stated she would support the purchase of the property but not with the use of CDBG funding and expressed concern with not having a plan for the project.

Mr. Souza stated the goal was to stir activity through Kern Street as part of the sports town and the purchase of the building would give the City control and an opportunity to issue an RFP and reiterated the project would not use CDBG funds. Mr. Souza noted the action today was to move forward and provide the owner of the building a direction that the City was willing to move in the same direction.

Councilmember Boyajian stated a developer was interested in the property and had offered \$850,000 but after the City got involved, the purchase price increased and noted the last time Section 108 funds were used was with the Sequoia Brewery project where the City invested money and was still paying for the project.

On motion of Councilmember Dages, seconded by Councilmember Calhoun, duly carried, RESOLVED staff hereby authored to complete negotiations of the Virginia Hotel located at the northwest corner of Kern and “L” Street from the estate of Spalding G. Wathen for up to \$1.5 million and return to Council with the final purchase agreement upon completion of environmental, historical and structural report reviews, by the following vote:

Ayes	:	Calhoun, Dages, Perea, Westerlund
Noes	:	Boyajian, Sterling, Duncan
Absent	:	None

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- (9:15 A.M. "D") ACTIONS RELATIVE TO THE WIDENING OF HERNDON AVENUE FROM CEDAR TO WILLOW AVENUES**  
**1. RESOLUTION NO. 2006-410 - 12<sup>TH</sup> AMENDMENT TO AAR 2006-253 APPROPRIATING \$2,605,500 IN THE PROPOSITION 111 FUND TO WIDEN HERNDON AVENUE**  
**2. AWARD A CONTRACT IN THE AMOUNT OF \$453,028 TO AMERICAN PAVING CO. FOR THE PROJECT**

Assistant Construction Manager Krauter reviewed the issue as contained in the staff report and recommended approval.

Councilmember Boyajian questioned the defunding of other projects with Assistant Public Works Director Kirn responding.

Council President Duncan questioned the completion of the project with Mr. Kirn stating the project should be completed by early fall to mid summer of next year.

On motion of Council President Duncan, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled Resolution No. 2006-410 hereby adopted, and the above entitled contract awarded as recommended, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

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- (9:15 A.M. "E") RESOLUTION NO. 2006-411 - 9<sup>TH</sup> AMENDMENT TO AAR 2006-353 APPROPRIATING \$32,500,000 TO COMPLETE FUNDING OF THE AWARD OF A CONSTRUCTION CONTRACT FOR THE ORGANIC UPGRADE AT THE FRESNO/CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY**  
**1. AWARD A CONSTRUCTION CONTRACT TO J.R. FILANC CONSTRUCTION COMPANY, INC. FOR THE PROJECT**  
**2. APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH URS CORPORATION AMERICAS, FOR CONSTRUCTION MANAGEMENT SERVICES FOR THE PROJECT**

Public Utilities Director Ramirez reviewed the staff report and distributed a detailed report explaining where the \$32,500,000 came from and gave a brief overview of the project.

Councilmember Sterling requested staff keep the Council informed of the progress in a timely manner.

A motion to approve the above item was acted upon after brief discussion.

Councilmember Westerlund expressed concern regarding funds being paid out of the operation and maintenance accounts for Public Utilities, but had not received reimbursement in a timely manner and noted the importance of receiving the payments appropriately as the rates charged by the City were being affected.

On motion of Councilmember Sterling, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Resolution No. 2006-411 hereby adopted, the above entitled contract awarded in the amount of \$104,991,000, and the agreement approved as recommended, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

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- (9:15 A.M. "F") ACTIONS RELATING TO THE REGIONALIZATION EFFORTS BY THE FIRE DEPARTMENT**  
**1. APPROVE SERVICE AGREEMENT FOR FIRE PROTECTION AND EMERGENCY SERVICES WITH THE NORTH CENTRAL FIRE PROTECTION DISTRICT AND AUTHORIZE EXECUTION OF DOCUMENTS SUBJECT TO APPROVAL BY THE DISTRICT'S ELECTORATE IN NOVEMBER**

Fire Chief Bruegman reviewed the staff report and stated the District Board had deadlocked on the passage of the contract, and stated the contract would set the stage for the regionalization of fire services as outlined in the 2025 General Plan, and noted the agreement was for 30 years. Chief Bruegman stated if the District wished to increase or decrease service throughout the term of the contract it had the flexibility for the City to amend the contract on an annual basis. Chief Bruegman stated the City would utilize the



District's equipment and their fire stations, which would have one command structure, one dispatch center and one command and control system under a fire response. Chief Bruegman also stated the consolidation of services would allow the closing of two stations and reallocate personnel throughout the District which would increase the staffing in Kerman and Biola.

Councilmember Sterling expressed concerned with the staffing on fire trucks with Chief Bruegman responding.

A motion to approve the above item was acted upon after extensive discussion.

**(5-0)** Councilmember Westerlund questioned the option of going regional and being able to revise the contract with City Attorney Sanchez stating if the Board approved the regionalization the contract would go into effect and the terms would remain in effect unless there was mutual agreement between the parties to reopen. Discussion ensued regarding the specifics and economics of the contract and Mr. Sanchez stated certain steps would have to be followed providing the Board approved the regionalization that would include the Position Authorization Resolution and any changes relating to the budget would have to be approved by both the Board and Council at a later time. Chief Bruegman stated the issue today was for Council to approve the contract before the November election to indicate the City's support of the regionalization with North Central Fire Protection District. Councilmember Westerlund expressed concern with not binding the City with certain terms and dollar amounts. Chief Bruegman stressed the importance of the Board participating in the negotiations and not the District's electorate. Councilmember Westerlund also questioned the payments of the annexation with Chief Bruegman responding.

On motion of Councilmember Sterling, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled service agreement approved as recommended, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

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#### **(9:15 A.M. "G") ACTIONS RELATING TO THE REGIONALIZATION EFFORTS BY THE FIRE DEPARTMENT**

#### **2. DISCUSSION/DIRECTION REGARDING CITY/FRESNO COUNTY FIRE PROTECTION DISTRICT SERVICE TO THE COUNTY ISLANDS WITHIN THE SPHERE OF INFLUENCE**

Fire Chief Bruegman reviewed the staff report and stated the issue was that some County islands within the City limits and the Sphere of Influence were not included in the Automatic Aid Agreement and noted an example was a small area in Fort Washington near Champlain and E. Liberty with approximately 60 homes where the City would only respond to the areas by a mutual aid standpoint which resulted in untimely responses.

Council President Duncan questioned whether staff has discussed the issue with Supervisor Susan Anderson and Chief Bruegman stated several discussions had taken place which resulted in returning to the Fire Protection District Board who was responsible for the management of the County islands. Council President Duncan recommended bringing the issue forward to the residents.

Chief Bruegman reviewed the options the City could take namely send a letter to the residents involved to inform them of where their service was coming from or to re-approach the Board of Supervisors to see if they would provide some type of intervention to solve the problem on a long term basis.

Councilmember Boyajian questioned why the City provided service at no cost and stated there was no incentive for the District to respond and noted the importance of possibly setting a deadline to negotiate a contract.

Council President Duncan recommended a letter be sent to the involved residents informing them of the issue and to include the Board of Supervisors and/or the signature of Supervisor Anderson's name along with the Councilmember for that area with Councilmember Calhoun concurring.

Council President Duncan questioned whether the Boardmembers received any type of compensation and Fire Chief Bruegman stated he would provide the requested information to Council. No action taken.

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**(9:15 A.M. "G") BILL NO. B-123 - ORDINANCE NO. 2006-131 - ADDING SECTION TO THE FRESNO MUNICIPAL CODE RELATING TO PROHIBITING BASE SALARY REDUCTIONS FOR UNCLASSIFIED EMPLOYEES' JOB PERFORMANCE**  
**1. PRESENTATION REGARDING "NEW NORMAL" AND "PAY FOR PERFORMANCE"**

On motion of Acting President Perea, seconded by Council President Duncan, duly carried, RESOLVED, the above entitled Bill No. B-123 adopted as Ordinance No. 2006-131, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan  
Noes : None  
Absent : None

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**(9:15 A.M. "H") ACTIONS RELATING TO SAROYAN THEATER RESTROOM REMODELING**  
**1. RESOLUTION NO. - MAKING FINDINGS AND DETERMINATIONS AWARDDING MULTI-PRIME CONTRACTS TO COMPLETE REMODEL AND INSTALLATION OF THE SAROYAN THEATER RESTROOMS IN NINETY (90) WORKING DAYS**  
**(ALTERNATIVE A) (NOT ADOPTED)**  
**2. RESOLUTION NO. 2006-142 - MAKING FINDINGS AND DETERMINATIONS AWARDDING MULTI-PRIME CONTRACTS TO COMPLETE REMODEL AND INSTALLATION F THE SAROYAN THEATER RESTROOMS BY DECEMBER 3, 2006**  
**(ALTERNATIVE B)**  
**3. AWARD A CONTRACT IN THE AMOUNT OF \$225,000 TO DIAZ CONSTRUCTION, INC., FOR BID PACKAGE NO. 1**  
**4. AWARD A CONTRACT IN THE AMOUNT OF \$237,800 TO DURHAM CONSTRUCTION, INC., FOR BID PACKAGE NO. 3**  
**5. AWARD A CONTRACT IN THE AMOUNT OF \$245,000 TO FRESNO PLUMBING AND HEATING, INC., FOR BID PACKAGE NO. 4**

Public Utilities Assistant Director Andersen reviewed the staff report, stated the bid file number should be corrected to read 2568 and staff requested Woodham Construction be relieved from the bid due to a mistake and briefly reviewed Alternatives "A" and "B".

On motion of Acting President Perea, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2006-142 (Alternative "B") hereby adopted; the above entitled contracts in the amount of \$225,000 to Diaz Construction, Inc. (Bid Package No. 1); the contract in the amount of \$237,800 to Durham Construction (Bid Package No. 3); and the contract in the amount of \$245,000 to Fresno Plumbing and Heating, Inc (Bid Package No. 4) hereby awarded, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan  
Noes : None  
Absent : None

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**(9:45 A.M.) REQUEST STAFF TO RETURN TO COUNCIL WITH AN UPDATE ON THE EVALUATION OF THE "WAYSIDE HORN" FOR USE AT AT-GRADE CROSSINGS ON THE BURLINGTON NORTHERN SANTA FE (BNSF) MAINLINE THROUGHOUT FRESNO - COUNCILMEMBER CALHOUN**

Councilmember Calhoun stated the City of Fresno rail lines run through the City 24 hours a day, and noted the train horns blared through the neighborhoods throughout the day and night. Councilmember Calhoun stated in an attempt to improve the quality of life, the City was working to establish a "quiet zone" and noted the California Public Utility Commission had expressed interest in assisting the City, but noted the traffic accidents at railroad crossings had decreased the City's safety record and also hampered the City's effort to receive the quiet zone designation. Councilmember Calhoun continued stating an evaluation had been done at several at-grade crossings at BNSF mainlines with the intent to include them in a quiet zone or the other option was the installation of a device called "way side horn" which aimed the horn directly onto oncoming traffic instead of throughout the neighborhood. Councilmember Calhoun stated examples of "way side horns" installations included Roseville, CA, and Richardson, Texas with brief discussion regarding the cost. Councilmember Calhoun requested staff return to Council with a report on the valuation of the way-side horn for use at at-grade crossings throughout the City of Fresno.

Tom Bailey, Fresno Rail Consolidation, stated approximately 50 freight trains plus 12 AmTrak trains pass through the City of Fresno per day impacting approximately 29 crossings and stated his organization supported the way side horns and quiet zones and recommended Council move forward.

Councilmember Boyajian thanked District 2 for bringing the matter forward and recommended a comprehensive study be performed not just for horns but also include the cost of security gates with City Manager Souza responding. Assistant Public Works Director Kim stated a report would be presented to Council at the October 17, 2006, Council meeting.

**(6-0)** On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, RESOLVED, staff directed to return to Council with a report on the valuation of the way-side horn for use at at-grade crossings on the BNSF mainlines through the City of Fresno and to include all at-grade crossings at the BNSF line, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan  
Noes : None  
Absent : None

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**LUNCH RECESS - 12:43 P.M. - 2:00 PM.**

**(2-C) BILL NO. B-136 - INTRODUCTION OF ORDINANCE ADDING ARTICLE 14 TO CHAPTER 9 OF THE FMC RELATING TO ABANDONED SHOPPING CARTS - MAYOR AUTRY AND COUNCILMEMBERS CALHOUN AND PEREA**

**(7 - 0)** Mayor Chief of Staff White thanked Councilmember Calhoun and Acting President Perea for their leadership on behalf of the Mayor and gave a brief overview of the issue, and District 2 Council Assistant Kloose, Mayor Deputy Chief of Staff Loreto and District 7 Council Assistant Vargas presented the issue which included the background, the abandoned cart problem and impact they have on the public's health and safety, the plan, and a summary of the proposed ordinance and the positive impact it will have on the community.

Discussion ensued with Councilmember Sterling speaking to her support and the need to support this ordinance, and Councilmembers Dages and Boyajian presenting questions and comments relative to whether businesses were contacted other than the grocers industry due to the expense involved, if existing carts will have to be re-marked/-re-identified, how homeless people with carts will be dealt with, enforcement, importance of making businesses aware and request that staff provide written notification to independent stores, need to take the rule book out before the citation book, the fines and charges allowed by law, what will happen to unmarked carts, the marking of carts and making businesses responsible, the plan businesses will be required to submit, how enforcement will occur, number of businesses with 25 carts or more, and the Fresno Irrigation District benefitting from this ordinance and need to inform them, with Ms. White and Deputy City Attorney Phelan responding throughout.

Acting President Perea thanked staff for all their work and efforts and working with the industry and made a motion to introduce the ordinance bill.

President Duncan noted abandonment/unlawful possession of a cart would now be a misdemeanor under this ordinance and questioned whether the police department was going to enforce that and if officers will stop and cite people they see with shopping carts that are obviously stolen, and stated his concern was the ordinance will not work if there are no consequences and spoke to the need for equal enforcement and for that to be part of the City's commitment, with Ms. White responding throughout.

Councilmember Calhoun commended staff, stated this was a critical quality of life issue and the ordinance would greatly benefit the industry, and spoke to his unsuccessful attempt to enact something similar like this back in 2002, to the work with the industry this time around and the associations being more supportive as constituents wanted this, and to the importance of this issue.

On motion of Acting President Perea, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Bill No. B-136 introduced before the City Council and laid over, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

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**(10:00 A.M. #1) HEARING ON CFD NO. 2, ANNEXATION NO. 131, FINAL TRACT NOS. 5427 AND 5686**

**1. RESOLUTION NO. 2006-413 - ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX**

**2. RESOLUTION NO. 2006-414 - CALLING A SPECIAL MAILED-BALLOT ELECTION**

**3. RESOLUTION NO. 2006-415 - DECLARING ELECTION RESULTS**

**4. BILL NO. B-137 - ORDINANCE NO. 2006-132 - LEVYING A SPECIAL TAX FOR THE 2006-07 PROPERTY TAX YEAR AND FUTURE TAX YEARS**

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Assistant Public Works Director Kirn advised the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Duncan closed the hearing.

On motion of Councilmember Westerlund, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Resolution Nos. 2000-413, 2006-414 and 2006-415 hereby adopted, and the above entitled Bill No. B-137 adopted as Ordinance No. 2006-132, by the following vote

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan  
Noes : None  
Absent : None

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**(10:00 #3 A.M.)** HEARING ON REZONE APPLICATION NO. R-06-21 AND ENVIRONMENTAL FINDINGS, FILED BY YAMABE AND HORN ENGINEERING, INC., ON BEHALF OF WAKEGAPS, LLC, EAST SIDE OF N. POLK BETWEEN W. GETTYSBURG AND W. ASHLAN AVENUES

**1. CONSIDER AND ADOPT THE E.A. FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR**

**2. BILL NO. B-138 - ORDINANCE NO. 2006-133 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-5/UGM TO R-1/UGM**

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Planner Tackett advised the staff report as submitted was complete and there was no new information to add.

Dirk Poeschel, representing the applicant, requested Council's support.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

Ono motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, **RESOLVED**, the above entitled Bill No. B-138 adopted as Ordinance No. 2006-133, by the following vote

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan  
Noes : None  
Absent : None

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**(10:10 A.M.)** CONTINUED HEARING ON PLAN AMENDMENT NO. A-05-27, REZONE APPLICATION NO. R-05-125, AND ENVIRONMENTAL FINDINGS, FILED BY GRAHAM DEVELOPMENT, SOUTH SIDE OF W. NEES BETWEEN N. PALM AND N. INGRAM AVENUES

**1. CONSIDER AND ADOPT MITIGATED NEGATIVE DECLARATION FOR THE ENVIRONMENTAL ASSESSMENT**

**2. RESOLUTION NO. 2006-416 - AMENDING THE GENERAL PLAN AND BULLARD COMMUNITY PLAN**

**3. BILL NO. B-139 - ORDINANCE NO. 2006-134 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM C-1 TO C-M/cz**

President Duncan announced the time had arrived to consider the issue and opened the hearing.

Councilmember Calhoun noted he asked for a legal opinion from the City Attorney which was provided to Council, recused himself from the proceedings due to a potential conflict of interest and left the meeting at 2:41 p.m., and as requested City Attorney Sanchez clarified traffic mitigation issues had a potential impact on Councilmember Calhoun's residence and he was provided with an opinion that he conflict out on this matter.

Planner Pagoulatos gave a PowerPoint presentation on the issue, all as contained in the staff report as submitted, stated staff worked hard to come to an agreement with the applicant and there was agreement on most conditions but the applicant was objecting to signalization of Ingram and Alluvial Avenues, and recommended approval.

Bill Robinson, Sol Development Associates, representing the applicants **(8 - 0)**, and Applicant Mehmet Noyan spoke to traffic issues/impacts, mitigation measures, and staff's position, and explained their reasons for opposing the installation of a signal at Ingram and Alluvial.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

Councilmember Boyajian stated he was pleasantly surprised with the impact fee, noted he did not have the traffic study which he would have liked to look at, commended staff on the mitigation measures, and presented questions/comments relative to whether the traffic study found the signals were warranted, if staff tried to work with the applicant, need for the signals, the City subsidizing the development, how much more infrastructure was left for the area, and how much of the area was developed out, with Assistant Traffic Engineering Manager Jones responding.

Discussion ensued. Mr. Robinson responded to questions of Councilmember Dages relative to the Ingram/Alluvial signal and the other area project coming forth, and further clarified this project was being down-zoned which would result in less traffic impacts than those prescribed in the MEIR. Councilmember Dages stated he has been able to get developers to install signals in southeast Fresno when traffic engineering says they can't be installed yet noted in the north area staff asks that signals be installed and developers say they do not want to and he had a difficult time evaluating/analyzing that, with Mr. Robinson responding. Upon question of Councilmember Westerlund, Mr. Jones confirmed the signal costs were part of the UGM program with the developer eligible for reimbursement. Councilmember Westerlund stated this was an in-fill project and he felt there was a significant nexus for the signals particularly since there would be a needed gas station at one corner; stated he hoped the developer would be reimbursed in a timely fashion; and presented questions relative to traffic calming roundabouts and if other traffic-calming strategies or tactics had been considered, with Mr. Jones responding.

On motion of Councilmember Westerlund, seconded by Councilmember Boyajian, duly carried, RESOLVED, the environmental finding dated June 22, 2006, for a Mitigated Negative Declaration for the E.A. hereby approved; the above entitled Resolution No. 2006-416 hereby adopted; and the above entitled Bill No. B-139 adopted as Ordinance No. 2006-134, subject to the conditions of zoning listed in the ordinance bill, by the following vote:

Ayes	:	Boyajian, Perea, Sterling, Westerlund, Duncan
Noes	:	Dages
Absent	:	None
Recused	:	Calhoun

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**(10:50 A.M.)** CONTINUED HEARING ON REZONE APPLICATION NO. R-06-15 AND ENVIRONMENTAL FINDINGS, FILED BY R.W. GREENWOOD ASSOCIATES, INC, ON BEHALF OF BOB AZZARO, SOUTH SIDE OF E. TULARE STREET BETWEEN S. HELM AND S. WILLOW AVENUES

**1. CONSIDER AND ADOPT THE E.A. FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR**

**2. BILL NO. B-140 - ORDINANCE NO. 2006-135 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-1 (COUNTY) TO R-1**

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Planner Bernal advised the staff report as submitted was complete and there was no new information to add. Councilmember Calhoun returned to the meeting at 3:12 p.m.

Upon call, no one wished to be heard and President Duncan closed the hearing.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Bill No. B-140 adopted as Ordinance No. 2006-135, by the following vote

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

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**(11:00 A.M.)** HEARING ON REZONE APPLICATION NO. R-06-44 AND ENVIRONMENTAL FINDINGS, FILED BY THE CITY OF FRESNO PARKS, RECREATION AND COMMUNITY SERVICES DEPARTMENT, SOUTHEAST CORNER OF W. CLINTON AND N. BRAWLEY, EAST OF THE EXISTING VICTORIA WEST COMMUNITY PARK AT 3861 W. CLINTON AVENUE

**1. CONSIDER AND ADOPT THE E.A. FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR**

**2. BILL NO. B-141 - ORDINANCE NO. 2006-136 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM RR TO O/UGM**

President Duncan announced the time had arrived to consider the issue and opened the hearing. Planning Manager Unruh introduced Parks Planning Coordinator Morrison who, upon question of President Duncan, advised the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Duncan closed the hearing.

Councilmember Sterling spoke in support of the project stating it was going to be a great addition to the growing area, thanked staff, and made a motion to approve staff's recommendation. Councilmember Boyajian also spoke in support of the park and thanked staff.

On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Bill No. B-141 adopted as Ordinance No. 2006-136, by the following vote

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

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**(2:30 P.M.) WORKSHOP ON ASSESSING THE ECONOMIC IMPACT OF A LIVING WAGE ORDINANCE IN THE CITY OF FRESNO - COUNCILMEMBER BOYAJIAN**

Councilmember Boyajian stated the poverty rate and minimizing of wages by outsourcing contracts were issues facing the city, and clarified his intent in scheduling this matter was for Council to listen to the presentation and get a better understanding of living wages.

Frances Sivak, contact person for the Fresno Living Wage Campaign, and Antonio Avalos, Assistant CSUF Economics Professor, gave an in-depth overview of the issue and PowerPoint presentation on the research study conducted on the economic impact of a living wage ordinance (LWO) for the City of Fresno **(9 - 0)**.

Councilmember Sterling thanked the committee, advised she started looking into the living wage and how it would affect the city due to the city's poverty rate and elaborated on the issue, and stated the concept of a good living wage was alive and well and again extended her thanks for the presentation. Ms. Sivak, City Manager Souza, committee researcher Nancy Marsh, and City Attorney Sanchez responded to questions and comments of Councilmember Boyajian relative to the LWO pertaining only to City contracts and not the minimum wage, the research conducted and information drawn up, if additional information was desired to generate more accurate figures, and if the City Attorney may be able to assist/help expedite information gathering.

President Duncan clarified this was a workshop and if a Council member wanted staff to spend over four hours of work that an item be placed on the agenda directing that to see if there if there is Council support, stated he felt it would be hypocritical for the City to impose something like this on the private sector when the City currently has over 300 employees making \$8 to \$10 an hour with no benefits, added he also felt anyone who wanted to make a living wage could if they were motivated clarifying there were training and education programs being offered and available, and extended his thanks for the presentation. There was no further discussion.

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**(3:15 P.M.) HEARING ON REZONE APPLICATION NO. R-05-111 AND ENVIRONMENTAL FINDINGS, FILED BY QUAD KNOPF ON BEHALF OF PLEASANT VALLEY INVESTMENTS LC, PROPERTY LOCATED ON THE SOUTH SIDE OF W. SHIELDS BETWEEN N. HAYES AND N. POLK A VENUES**

**1. CONSIDER AND ADOPT THE E.A. FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR**

**2. BILL NO. B-142 - ORDINANCE NO. 2006-137 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM RR (COUNTY) TO R-1/UGM**

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question staff advised the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Duncan closed the hearing.

On motion of Acting President Perea, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Bill No. B-142 adopted as Ordinance No. 2006-137, by the following vote

Ayes : Calhoun, Dages, Perea, Sterling, Westerlund, Duncan  
Noes : Boyajian  
Absent : None

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**(3:20 P.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY**

The City Council recessed at 4:00 p.m. and convened in joint session with the Redevelopment Agency.

**APPROVE AGENCY MINUTES OF AUGUST 22, 2006**

On motion of Councilmember Dages, seconded by Councilmember Westerlund, duly carried, RESOLVED, the Agency minutes of August 22, 2006, approved as submitted.

**("C") AWARD A CONTRACT FOR INDEPENDENT AUDIT AND RELATED STATE CONTROLLER'S REPORT PREPARATION SERVICES TO BROWN AND ARMSTRONG PAULDEN McCOWN STARBUCK THORNBURGH & KEETER ACCOUNTANCY CORPORATION (BROWN ARMSTRONG CPA's), AND AUTHORIZE THE EXECUTIVE DIRECTOR TO NEGOTIATE AND EXECUTE THE CONTRACT FOR SERVICES**

Executive Director Murphey reviewed the issue, all as contained in the staff report as submitted, and recommended approval.

Councilmember Calhoun noted the City Manager worked with this firm when they audited the City and upon his question City Manager Souza stated he had no concern whatsoever with the hiring of this firm again.

On motion of Councilmember Westerlund, seconded by President Duncan, duly carried, RESOLVED, a contract for an Independent Audit and related State Controllers Report Preparation Services hereby awarded to Brown Armstrong CPA's at the fee of \$24,000 for FY 05/06, and the Executive Director authorized to negotiate and execute the contract for services, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Westerlund, Sterling  
Noes : None  
Absent : None

**("B") Item removed from the agenda**

**("D") APPROVE AND AUTHORIZE THE EXECUTIVE DIRECTOR TO ENTER INTO A PURCHASE AND SALES AGREEMENT FOR VACANT PROPERTY WITHIN THE SOUTHWEST FRESNO GNRA REDEVELOPMENT PROJECT AREA OWNED BY STEPHANIE RUBERY AND DOUGLAS KEYS**

Chair Sterling noted this property was in the Hope VI project area and recused herself from this matter and the following Item "A" due to a conflict of interest and left the meeting at 4:05 p.m. Executive Director Murphey reviewed the issue, all as contained in the staff report as submitted, and recommended approval.

On motion of President Duncan, seconded by Councilmember Westerlund, duly carried, RESOLVED, the Executive Director authorized to enter into a Purchase and Sales Agreement for the willing-seller purchase of APN 477-060-04, located within the Southwest Fresno GNRA Redevelopment Project Area and take the necessary actions to close escrow, by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, Westerlund, Boyajian  
Noes : None  
Absent : None  
Recused : Sterling



("A") CONSIDER REJECTION OF ALL BIDS CONCERNING THE PROPOSED CONSTRUCTION OF TULARE STREET "B" TO "E" STREETS MEDIAN ISLAND AND LANDSCAPING WITHIN THE WEST FRESNO GNRA PROJECT AREA

Executive Director Murphey reviewed the issue, all as contained in the staff report as submitted, and recommended the bids be rejected.

On motion of President Duncan, seconded by Councilmember Westerlund, duly carried, RESOLVED, the bids received for the proposed construction of Tulare Street "B" to "E" Streets Median Island and Landscaping hereby rejected, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Perea, Westerlund, Boyajian
Noes	:	None
Absent	:	None
Recused	:	Sterling

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The joint bodies adjourned their meeting at 4:08 p.m. and the City Council reconvened in regular session.

**(3:30 P.M.)** BILL FOR INTRODUCTION ADOPTING TEXT AMENDMENT APPLICATION NO. TA-06-02 (VARIETY PAK NO. 3) AND ENVIRONMENTAL FINDINGS, INITIATED BY THE PLANNING AND DEVELOPMENT DIRECTOR, AMENDING THE TEXT OF THE FMC ZONING ORDINANCE RELATED TO SIMPLIFYING AND STREAMLINING THE CODE AND PROPOSING CHANGES AND ADDITIONS AS DIRECTED BY THE ADOPTION OF THE 2025 FRESNO GENERAL PLAN IN ORDER TO BEST PROMOTE ITS IMPLEMENTATION

President Duncan noted at the City Manager's request this matter was changed to a presentation by staff and advised after staff's presentation the matter would be opened to the public and the bill would be back in September. Councilmember Sterling returned to the meeting at 4:09 p.m.

Planning & Development Director Yovino gave an overview of the issue and the process undertaken, stated although there were some differences of opinion on some provisions, particularly the elimination of the "no drop-down provision" which some speakers would be commenting on, there was good, strong support overall by the different interest groups for the provisions in this variety pak, and acknowledged Planner Stiglich for all his work throughout the process which he stated was a difficult and complicated effort.

Planner Stiglich referenced the "Major Themes of Change to the Text of the Zoning Ordinance by Variety Pak #3" which he distributed earlier, and gave an in-depth overview of the major points **(10 - 0)**.

Mr. Yovino added the General Plan Housing Element deals with the issue of afford ability and emphasized many of these changes are intended to increase afford ability and not add density to the plan, and stated this was very important as about 83% of families cannot afford to buy a medium priced home in this community.

Speaking to the issue were: Mike Prandini, BIA Executive Director, who stated there were still several items of serious concern to them and explained; Bill Robinson, Sol Development Associates, who requested Council move forward as soon as possible as some of the changes affect projects currently in the process, and stated he was opposed to a delay and they would support separating out the BIA's issues; John Mulligan, Associate Superintendent of the FUSD, who stated the drop-down issue was of concern to the district and urged it be looked at carefully; Attorney Jim McKelvey, representing several land developers, who urged Council to move forward at their earliest convenience and suggested separating out those issues of concern that are holding up projects; Alan Hoffman, FMFCD Assistant District Engineer, who advised their concern was with the smaller lots and run-off and explained; Terry Cox, West Area Committee member, who requested the committee be allowed to respond to their plan amendment; Sara Hedgpeth-Harris, Social Policy Director of the League of Women Voters and Chair of the Fresno Housing Alliance Steering Committee, who spoke to the critical shortage of affordable rental/ownership housing; Andy Hanson Smith, who spoke to the sprawl issue and need for increased densities; and Jaime Holt, Planning Commissioner, who spoke in support of moving forward on September 19<sup>th</sup> to get public input on the variety pak as a whole and spoke to the drop-down issue.

Council discussion ensued. Mr. Yovino responded to questions of Councilmember Calhoun relative to staff's and the planning commission's recommendations on building height, and if any design modifications were being proposed for big box stores. Acting President Perea stated he liked about 98% of the variety pack and he was excited to see the green building and public art, and stated he looked forward to more discussion and public debate on the issue. Mr. Yovino responded to questions of Councilmember Westerlund relative to areas affected by the drop-down provision, developers' ability to construct medium-range housing, densities (referencing the Highland Ranch subdivision being constructed in the east area and displaying their site plan), PUDs and density code provisions, if West Area policies take precedence over the general plan, and if staff has been working with the FMFCD. Staff and the public were thanked for their presentation and input, with Councilmember Calhoun stating this was a difficult issue and this discussion was very useful and Council would be a little more knowledgeable when this matter comes back. Upon question of Mr. Prandini, Mr. Souza and President Duncan clarified September 19<sup>th</sup> and 26<sup>th</sup> would be the public hearings for introduction of the ordinance and then adoption.

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#### APPROVE JOINT POWERS FINANCING AUTHORITY MINUTES OF AUGUST 22, 2006

On motion of Member Boyajian, seconded by Member Duncan, duly carried, RESOLVED, the JPFA Minutes of August 22, 2006, approved as submitted.

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#### (2-A) DIRECT STAFF TO RETURN WITH A PROPOSAL THAT WILL OFFER HOMEOWNERS A TAX INCENTIVE OR REBATE FOR THE USE OF SOLAR ENERGY IN HOMES - ACTING PRESIDENT PEREA

Acting President Perea gave a brief overview of the issue **(11 - 0)** and requested Council's support and authorization for him to work with staff to develop and bring back a proposal and any comments that may gain Council's support in the future, asked that Council be mindful of any pitfalls or red flags they may see, and made a motion to direct staff as outlined, *with his involvement*, which motion was seconded by Councilmember Sterling.

Councilmember Calhoun stated this was intriguing, the decisions would be in the details, and if Acting President Perea and staff were willing to spend some time on this he felt this was something that would be very useful to look at. Councilmember Westerlund stated this was laudable and upon his question, Acting President Perea stated the tax incentive concept at this point was very broad and he wanted to leave it broad as he wanted to go into this with staff with all options open, and reiterated he wanted to hear any red flags Council may say "no" to. Councilmember Westerlund stated his red flag and first question was how anything like this would be paid for given the City's financial state and services that need to be provided, and added this would make sense to him if the City was a municipality or municipal utility district that provided energy. Upon question of President Duncan, City Manager Souza stated this was very preliminary, any tax rebate would have to come from the general fund, he felt this was worth a hard look due to all the City has invested in air quality and OCA, and stated staff may come back with ideas that are cost neutral, or with some that may have a little cost, or with some that may have a lot of cost which was what the challenge would be if Council so directs. President Duncan stated his concerns were somewhat related to Councilmember Westerlunds, noted solar energy systems were not inexpensive and stated with all the tremendous needs of the city he would have a real problem and would not support giving the very scarce tax dollars back to what would probably end up being very affluent homeowners who can afford solar systems anyway, and suggested staff look into grants and added he would support the motion as it would not hurt to take a look.

Councilmember Dages stated he like this idea, noted something like this has already been done downtown and no one seemed to have a problem then and he could not see why there would be a problem now, stated he was not worried about the money at this point as this was just conceptual and people would get together and throw a bunch of ideas on the table and see what stays or what rolls off, and stated he felt this was going to be fun to put this together and added the results will be nothing but positive as the worst would be no policy. Councilmember Westerlund stated he would support the motion based on the City Manager's and Councilmember Dages' comments, and upon his question Mr. Souza stated he assumed a permit fee was required when someone installs solar panels on their homes and added this was the type of thinking that may create a cost neutral situation.

On motion of Acting President Perea, seconded by Councilmember Sterling, duly carried, RESOLVED, Acting President Perea and staff authorized and directed to return with a proposal that will offer homeowners a tax incentive or rebate for the use of solar energy in homes, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan  
Noes : None  
Absent : None

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**(2-B) DIRECT STAFF TO RESEARCH, DRAFT AND REPORT BACK WITH APPROPRIATE AND NECESSARY LEGAL AND TRAINING CHANGES WHICH MAY BE REQUIRED TO ENABLE PUBLIC WORKS PARKING DIVISION OFFICERS TO ENFORCE CODE VIOLATIONS FOR PARKING VIOLATIONS IN DRIVEWAYS AND OTHER CIRCUMSTANCES AS APPROPRIATE - COUNCILMEMBER WESTERLUND**

Reviewed by Councilmember Westerlund who spoke to the division of labor between enforcement departments and stated he wanted parking control officers, who currently enforce parking violations on streets under the Vehicle Code, to be able to enforce under the Fresno Municipal Code and deal with parking violations on private property as well as streets, and advised he talked with all involved staff and they felt this may be a possibility and worth looking into and made a motion to direct staff as outlined, which motion was seconded by Councilmember Sterling.

City Manager Souza stated he appreciated Councilmember Westerlund bringing this matter forth, he felt there was great opportunity here and added this was the same principle as what the Development Department did with their combination inspectors, and stated he looked forward to working with the City Attorneys office to make parking enforcement more efficient.

Councilmember Sterling expressed her spoke stating she had a major problem in her district. Councilmember Boyajian presented questions relative to whether the Police Department was already involved in this and if the intent was for one employee to have the authority to issue citations for parking violations on streets, driveways, and yards, with Councilmember Westerlund responding. Councilmember Calhoun stated this was very intriguing and he was always under the impression the City's system was based on State statutes and requirements, and questioned if the City Attorney had any red flags, with City Attorney Sanchez stating he did not at this time and he wanted to explore the Vehicle Code provisions in depth, clarified currently the City can not have inspectors crossing over into areas that would involve technical expertise, which he did not believe was the case here, and stated he felt there were possibilities here that staff would like to explore from a legal standpoint as well.

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, **RESOLVED**, staff directed to research, draft and report back with appropriate and necessary legal and training changes which may be required to enable Public Works Parking Division officers to enforce code violations for parking violations in driveways and other circumstances as appropriate, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan  
Noes : None  
Absent : None

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**(2:00 P.M. #2) CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL:**

**(A) ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION: LANCE KASHIAN, INCLUDING CERTAIN "KASHIAN ENTITIES" V. COF**

**(B) EXISTING LITIGATION - CASE NAMES:**

- 1. COF V. PINEDALE COUNTY WATER DISTRICT**
- 2. U.S.A. V. COF AND FAMILY ALLIANCE FOR THE MENTALLY ILL, AFFORDABLE HOMES, INC., CRAIG HARVEY AND JAN DOE V. COF, ET AL (FAMI V. COF)**
- 3. BUILDING INDUSTRY ASSOCIATION OF THE SAN JOAQUIN VALLEY V. COF**

The City Council met in closed session in Room 2125 at the hour of 5:35 p.m. to consider the above matters and reconvened in regular open session at 7:17 p.m. There were no announcements made.

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**(2:15 P.M.) APPROVAL OF DOCUMENTS RELATING TO GROUP HOME FACILITIES**

**1. RESOLUTION NO. 2006-417 - IDENTIFYING FACILITIES SUBJECT TO STATE SPACING STANDARDS AND EXEMPT FROM LOCAL SPACING REGULATIONS**

**2. BILL NO. B-143 - ADOPTING TEXT AMENDMENT NO. TA-05-01 AMENDING THE TEXT OF THE FMC ZONING ORDINANCE REGARDING THE DEFINITION AND CLASSIFICATION OF GROUP HOME FACILITIES**

Councilmember Boyajian thanked staff for all their hard work and efforts they had to go through and made a motion to approve.

On motion of Councilmember Boyajian, seconded by President Duncan, duly carried, RESOLVED, the Finding of Conformity with the General Plan MEIR for E.A. No. TA-065-01 prepared for this project hereby approved; the above entitled Resolution No. 2006-417 hereby adopted; and the above entitled Bill No. B-143 introduced before the City Council and laid over to September 19, 2006, at 9:45 a.m. for adoption, by the following vote:

Ayes : Boyajian, Dages, Perea, Sterling, Westerlund, Duncan  
Noes : Calhoun  
Absent : None

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**ADJOURNMENT**

There being no further business to bring before the City Council, the hour of 7:18 p.m. having arrived and hearing no objections, President Duncan declared the meeting adjourned.

*Approved* on the \_\_\_\_19<sup>th</sup> \_\_\_\_\_ day of \_\_\_\_\_ September \_\_\_\_\_, 2006.

\_\_\_\_\_/s/\_\_\_\_\_  
Jerry Duncan, Council President

ATTEST: \_\_\_\_\_/s/\_\_\_\_\_  
Yolanda Salazar, Assistant City Clerk